

1 Christopher M. Curran (*pro hac vice*)

2 ccurran@whitecase.com

3 Lucius B. Lau (*pro hac vice*)

4 alau@whitecase.com

5 Dana E. Foster (*pro hac vice*)

6 defoster@whitecase.com

7 White & Case LLP

8 701 Thirteenth Street, N.W.

9 Washington, DC 20005

10 Telephone: (202) 626-3600

11 Facsimile: (202) 639-9355

12 *Counsel to Defendants Toshiba Corporation,*

13 *Toshiba America, Inc.,*

14 *Toshiba America Consumer Products, LLC,*

15 *Toshiba America Information Systems, Inc.,*

16 *and Toshiba America Electronic Components, Inc.*

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 (SAN FRANCISCO DIVISION)

20 IN RE: CATHODE RAY TUBE (CRT)
21 ANTITRUST LITIGATION

22 Case No. 07-5944 SC
23 MDL No. 1917

24 This Document Relates To:

25 *The Indirect Purchaser Action*

26 *Electrograph Systems, Inc. et al. v. Hitachi, Ltd.*
27 *et al.*, No. 11-cv-01656;

28 *Siegel v. Hitachi, Ltd., et al.*,
No. 11-cv-05502;

Best Buy Co., Inc., et al. v. Hitachi, Ltd., et al.,
No. 11-cv-05513;

Target Corp., et al. v. Chunghwa Picture Tubes,
Ltd., et al., No. 11-cv-05514;

**DECLARATION OF
LUCIUS B. LAU IN SUPPORT OF
DEFENDANTS' JOINT NOTICE
OF MOTION AND MOTION TO
EXCLUDE CERTAIN EXPERT
TESTIMONY OF PROFESSOR
KENNETH ELZINGA**

DECLARATION OF LUCIUS B. LAU IN SUPPORT OF DEFENDANTS' JOINT NOTICE OF MOTION
AND MOTION TO EXCLUDE CERTAIN EXPERT TESTIMONY OF PROF. ELZINGA

Case No. 07-5944-SC
MDL No. 1917

1 *Sears, Roebuck and Co., et al. v. Chunghwa*
2 *Picture Tubes, Ltd., et al.*, No. 11-cv-05514;

3 *Interbond Corporation of America v. Hitachi, et*
4 *al.*, No. 11-cv-06275;

5 *Office Depot, Inc. v. Hitachi, Ltd., et al.*,
6 No.11-cv-06276;

7 *CompuCom Systems, Inc. v. Hitachi, Ltd. et al.*,
8 No. 11-cv-06396;

9 *Costco Wholesale Corporation v. Hitachi, Ltd.,*
10 *et al.*, No. 11-cv-06397;

11 *P.C. Richard & Son Long Island Corporation, et*
12 *al. v. Hitachi, Ltd., et al.*, No. 12-cv-02648;

13 *Schultze Agency Services, LLC v. Hitachi, Ltd.,*
14 *et al.*, No. 12-cv-02649;

15 *Tech Data Corporation, et al. v. Hitachi, Ltd.,*
16 *et al.*, No. 13-cv-00157;

17 *Sharp Electronics Corp., et al. v. Hitachi, Ltd.,*
18 *et al.*, No. 13-cv-01173;

19 *ViewSonic Corporation, v. Chunghwa Picture*
20 *Tubes, Ltd., et al.*, No. 3:14cv-02510

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23 **REDACTED VERSION OF DOCUMENTS SOUGHT TO BE SEALED**
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1 I, Lucius B. Lau, hereby declare as follows:

2 1. I am an attorney with the law firm of White & Case LLP, counsel for
3 Defendants Toshiba Corporation, Toshiba America, Inc., Toshiba America Consumer
4 Products, LLC, Toshiba America Information Systems, Inc., and Toshiba America Electronic
5 Components, Inc. (collectively, the "Toshiba Defendants").

6 2. I submit this declaration in support of Defendants' Joint Notice of Motion
7 and Motion to Exclude Certain Expert Testimony of Professor Kenneth Elzinga. Except for
8 those matters stated on information and belief, which I believe to be true, I have personal
9 knowledge of the facts stated herein, and I could and would competently testify thereto if
10 called as a witness.

11 3. Attached hereto as Exhibit A is a true and correct copy of the Expert Report of
12 Kenneth Elzinga, dated April 15, 2014.

13 4. Attached hereto as Exhibit B is a true and correct copy of Reply Expert Report
14 of Professor Kenneth Elzinga, dated Sept. 26, 2014.

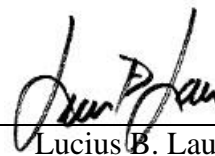
15 5. Attached hereto as Exhibit C is a true and correct copy of excerpts from the
16 deposition of Kenneth Elzinga, taken October 15, 2014.

17 6. Attached hereto as Exhibit D is a true and correct copy of excerpts from the
18 deposition of Kenneth Elzinga, taken July 17, 2014.

19 7. Attached hereto as Exhibit E is a true and correct copy of excerpts from the
20 testimony of Kenneth Elzinga, *In re: Urethane Antitrust Litig.*, No. 04-1616 (Dkt # 2871).

21 I declare under penalty of perjury under the laws of the United States of America that
22 the foregoing is true and correct.

23 Executed this 5th day of December, 2014, in Washington, D.C.

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Lucius B. Lau

DECLARATION OF LUCIUS B. LAU IN SUPPORT OF DEFENDANTS' JOINT NOTICE OF MOTION
AND MOTION TO EXCLUDE CERTAIN EXPERT TESTIMONY OF PROF. ELZINGA

Case No. 07-5944-SC
MDL No. 1917

Exhibit A
Filed Under Seal

Exhibit B
Filed Under Seal

Exhibit C
Filed Under Seal

Exhibit D
Filed Under Seal

Exhibit E

VOLUME 16
MORNING SESSION
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

IN RE:

URETHANE ANTITRUST LITIGATION CASE NO. 04-1616

TRANSCRIPT OF TRIAL PROCEEDINGS
before
HONORABLE JOHN W. LUNGSTRUM
on
FEBRUARY 13, 2013

APPEARANCES

For the Plaintiffs: Joseph Goldberg
Freedman, Boyd, Hollander, Goldberg
& Ives PA
20 First Plaza, Suite 700
Albuquerque, NM 87102

Michael J. Guzman
Kellogg, Huber, Hansen, Todd, Evans
& Figel PLLC
Sumner Square
1615 M Street, NW, Suite 400
Washington, DC 20036-3209

Roberta D. Liebenberg
Fine, Kaplan and Black RPC
One South Broad Street, Suite 2300
Philadelphia, PA 19107

Kit A. Pierson
Cohen, Milstein, Sellers & Toll,
PLLC
West Tower, Suite 500
1100 New York Avenue, NW
Washington, DC 20005-3934

REBECCA S. RYDER, CSR, CCR, RMR
UNITED STATES COURT REPORTER
913-735-2334

DIRECT EXAMINATION

1 Dr. McClave's statistical model. I did not do that.

2 Q. Okay. You also said in connection -- let me go back.

3 You said that you did look at Dr. Solow's testimony

4 before this jury. Do you recall that?

5 A. Yes, sir.

6 Q. Okay. And it's true, is it not, that as the jury

7 well knows, Dr. Solow in turn examined things like

8 the meeting at the Greenbrier resort and playing golf

9 and this kind of thing? Have you analyzed the

10 evidence that Dr. Solow called evidence regarding

11 pricing communications?

12 A. I have certainly read the evidence because I have

13 read his reports.

14 Q. Okay. I haven't heard you talk about it here this

15 morning. Why haven't you talked to the jury about

16 the meeting at the Green -- the 19th hole at

17 Greenbrier or the walk in the woods at Baywood or any

18 of the other events that have been described in

19 testimony? Why didn't you do that?

20 A. I didn't do that because I don't think that's the job

21 of an economist. To my mind that's the job of a

22 conspiracy-ologist.

23 Q. Okay. Is that your term, conspiracy-ologist?

24 A. No, that's not my term. That's a term I learned when

25 I was much younger working on the Supreme Court case

DIRECT EXAMINATION

1 that I mentioned earlier called Matsushiba. And in
2 that case the -- there were two economists for the --

3 MR. GOLDBERG: Your Honor, I'm going to --
4 he's gone beyond the question, was that your term.
5 Now we're going into a narrative --

6 THE COURT: Sustained.

7 MR. GOLDBERG: -- which I'm going to object
8 to.

9 THE COURT: Sustained.

10 MR. BERNICK: Oh.

11 Q. (By Mr. Bernick) Well, what is it that you mean by
12 conspiracy-ologist?

13 A. Well, I'm about to explain that in the context of
14 Matsushiba because that's where I learned the term.

15 MR. GOLDBERG: Now I'm going to object.

16 MR. BERNICK: Just relax. I'm going to
17 instruct him.

18 Q. (By Mr. Bernick) I think counsel for the class is
19 concerned with your reciting the case that gave you
20 that term. And in order to make our process smooth
21 and harmonious, I would like you to simply confine
22 your testimony to what you have taken that word to
23 mean and its relevance to the nature of the approach
24 that you have taken here. And if you could do that
25 that would be -- everybody will be happy and we will

DIRECT EXAMINATION

1 go forward.

2 A. Okay. I will try and do that. I do want to go
3 forward.

4 Q. Okay.

5 A. So the term, I came to learn, means where someone who
6 claims to be an economist looks at evidence of the
7 data that "he said/she said," or I was at this -- I
8 saw that they played golf together, or it was this
9 luncheon, and infers from that that this was a
10 conspiracy. And I have saw that term referred to as
11 a conspiracy-ologist. And where I came across that
12 term --

13 THE WITNESS: That's where it stops.

14 THE COURT: Good enough.

15 Q. (By Mr. Bernick) Tell us -- this does have -- this
16 whole idea of that kind of approach where you're
17 looking at the "he said/she said" that's something
18 that you decided not to do in this case; correct?

19 A. That's correct. To my mind that is not economics,
20 that's the work of a conspiracy-ologist.

21 Q. And you've followed the same approach for years and
22 years and years?

23 A. That's correct.

24 Q. So now tell the jury why it is that you don't go down
25 that road.

DIRECT EXAMINATION

1 A. I don't go down that road because I don't have any
2 particular training. As an economist there's nothing
3 in my graduate training, there's nothing in the
4 research I do as an antitrust economist that gives me
5 an advantage or special insight into learning about a
6 conversation that might have taken place when people
7 played golf or when they were at lunch with one
8 another. That type of evidence to me is not
9 economics evidence, it's not what economists work
10 with.

11 If I can just put my mystery writer's hat on a
12 moment it's what we call gumshoe evidence, and
13 gumshoe evidence may be a term that not everybody
14 knows, but in mystery writing parlance a gumshoe is a
15 detective, it's a PI, a private investigator.

16 Q. Who walks around in shoes that are soft-soled shoes?

17 THE COURT: Or steps on chewing gum. Who
18 knows, but let's --

19 MR. BERNICK: Well, I don't know, your
20 Honor.

21 THE COURT: Probably not that pertinent.

22 MR. BERNICK: I am cutting out lots of
23 things to ask, but I thought we would get a little
24 bit of something in there. Sorry.

25 Q. (By Mr. Bernick) Okay. So you don't do that kind of